

REMARKS

The Examiner's comments concerning the reference numeral for the pins is greatly acknowledged and the oversight has been corrected.

To expedite prosecution of this application, claim 1 has been amended, claim 2 has been amended to depend from claim 1, and claims 4 and 5 have been cancelled. The Summary of the Invention section of the specification has been amended to conform to the currently pending claims. Further, any of claims 1, 2, 4 and 5 as originally filed may be pursued in a subsequent continuing application, at which time the novelty and patentability of these claims will be explained.

Independent claim 3 was rejected under 35 USC § 103(a) as unpatentable over Aysta in view of Ruediger. This rejection is respectfully traversed.

Independent claim 3 defines a housing for use with a sampler tray containing vials. The housing includes a key mechanism which is arranged to orient the sampler tray and the vials with respect to the housing, and the key mechanism includes an annular protrusion having a notch. When the sampler tray is set in the notch of the housing, the tray and the vials are keyed to the housing. This particular keying mechanism is particularly advantageous because it is so easy to drop the tray into the notch and key the sampler tray in place. The tray may simply be set on the protrusion and rotated until it drops in the notch.

Nothing in Aysta or Ruediger discloses or suggests a housing having a key mechanism as defined in claim 3. Ruediger discloses standoffs 20 which vertically align and vertically separate plates 14, 18 stacked on the standoffs. However, one of the ordinary skill in the art would not combine the aligning standoffs of Ruediger with the apparatus of Aysta because no alignment is necessary for Aysta. The rack 50 of Aysta is simply placed in the rectangular bottom housing part 44, where it sits in a depression of the housing part without the need for any standoffs to vertically align and separate the rack within the housing part. Further, nothing in Aysta or Ruediger discloses or suggests as a key mechanism an annular protrusion having a notch. Consequently, it is respectfully contended that independent claim 3 is patentable over Aysta and Ruediger.

Independent claim 1 has been amended to define a test sample preparation device which includes a key mechanism that uniquely orients the vials within the housing. Many, but not all, embodiments of the invention defined by claim 1 may have a cylindrical configuration and may be used in various automated processes. The key mechanism can prevent the vials from changing positions, for example by rotation of the sampler tray, within the housing as the housing moves to various positions during the automated process. Nothing

In re Appln. of Eric R. SKLAR et al.
Application No. 09/803,739

in the art cited in the Office Action discloses or suggests a test sample preparation device including a key mechanism of claim 1.

Conclusion

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



John M. Belz, Reg. No. 30,359
LEYDIG, VOIT & MAYER
700 Thirteenth Street, N.W., Suite 300
Washington, DC 20005-3960
(202) 737-6770 (telephone)
(202) 737-6776 (facsimile)

Date: 16 April 2004